Docket No. AUS920030930US1 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Childress et al.**	§	
	§	Group Art Unit: **2175**
Serial No.: **10/753,250**	§	
	§	Examiner: **Hur, Ece**
Filed: **January 8, 2004**	§	
	§	Confirmation No.: **7961**
For: **Method for Multidimensional Visual Correlation of Systems Management Data**	§	

35525
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on November 24, 2008.

A fee of $540.00 is required for filing an Appeal Brief. Please charge this fee to IBM Corporation Deposit Account No. 09-0447. No additional fees are believed to be necessary. If, however, any additional fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation of Armonk, New York.

RELATED APPEALS AND INTERFERENCES

This appeal has no related proceedings or interferences.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

The claims in the application are: 1-44

B. STATUS OF ALL THE CLAIMS IN APPLICATION

Claims canceled: 4, 11 and 15-43

Claims withdrawn from consideration but not canceled: None

Claims pending: 1-3, 5-10, 12-14 and 44

Claims allowed: None

Claims rejected: 1-3, 5-10, 12-14 and 44

Claims objected to: None

C. CLAIMS ON APPEAL

The claims on appeal are: 1-3, 5-10, 12-14 and 44

STATUS OF AMENDMENTS

No amendment was filed after final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

A. CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a method for monitoring system performance and communicating detailed system performance data via an enhanced graphical user interface as described in the specification at least on page 4, lines 1-6 and page 12, lines 11-16. Claim 1 recites querying a current monitoring configuration as described in the specification at least in Figure 6, block 602 and page 20, lines 18-25. Claim 1 further recites monitoring system performance using instructions obtained from the current monitoring configuration as described in the specification at least in Figure 6, block 604 and page 20, lines 25-28. Claim 1 recites polling system data according to the current monitoring configuration as described in the specification at least in Figure 6, block 606 and page 21, lines 10-13. Claim 1 recites displaying the polled system data on a graphical user interface as described in the specification at least in Figure 6, block 612, Figure 5, and page 15, line 24 to page 20, line 10, wherein the graphical user interface comprises a target-type management vector display including regions representing levels of system performance as described in the specification at least in Figure 5, and page 15, line 24 to page 20, line 10 and a metric point within the display identifying the current status of system performance at a particular point in time as described in the specification at least in Figure 5, and page 15, line 24 to page 20, line 10. Claim 1 further recites performing an adjustment to system operations based on a region in which the metric point is located in the target-type management vector display as described in the specification at least on page 13, lines 10-29, page 15, lines 3-6, page 17, line 20 to page 18, line 13 to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display as described in the specification at least on page 18, line 27 to page 19, line 2 and page 16, lines 1-15.

B. CLAIM 12 - DEPENDENT

The subject matter of claim 12 recites the method according to claim 1, and further recites wherein the target-type management vector display comprises three regions, wherein a first region indicates satisfactory performance, a second region indicates improvement required performance, and a third region indicates unacceptable performance as described in the specification at least on page 16, lines 1-22, page 22, line 27 to page 23, line 4, Figure 5, blocks

506, 508, 510, and Figure 7, blocks 706, 708, 710.

C. CLAIM 13 - DEPENDENT

The subject matter of claim 13 recites the method according to claim 1, and further recites wherein the regions are displayed using different colors as described in the specification at least on page 19, lines 23-26 and page 22, line 27 to page 23, line 1.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to review on appeal are as follows:

A. GROUND OF REJECTION 1

Rejection of claims 1-3, 5-10, 12-14 and 44 as being unpatentable under 35 U.S.C. § 103 over Caccavale (U.S. Patent No. 5,819,033), hereinafter "*Caccavale*";

B. GROUND OF REJECTION 2

Rejection of claims 12 and 13 as being unpatentable under 35 U.S.C. § 103 over Caccavale (U.S. Patent No. 5,819,033), hereinafter "*Caccavale*" in view of Manghirmalani (U.S. Patent No. 5,819,028), hereinafter "*Manghirmalani*".

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1-3, 5-10, 12-14 and 44)

The Examiner has rejected claims 1-3, 5-10, 12-14 and 44 as being unpatentable under 35 U.S.C. § 103 over Caccavale (U.S. Patent No. 5,819,033), hereinafter "*Caccavale*".

The Examiner states:

> Regarding Claim 1, Caccavale discloses the claimed aspect of a method for monitoring system performance and communicating detailed system performance (Abstract, Fig.12) data via an enhanced graphical representation (Caccavale, Column 4, lines 26-29, FIG. 12), comprising: querying a current monitoring configuration(Abstract); monitoring system performance using instructions obtained from the current monitoring configuration(Caccavale, Column 2, lines 16-19); polling system data according to the current monitoring configuration; and displaying the polled system data on a graphical representation(Caccavale, Column 3, lines 58-66, FIG.12), wherein the graphical representation comprises a target-type management vector display including regions representing levels of system performance(Column 29, lines 6-19, FIG.12), more specifically, wherein the sphere in FIG. 12 is one of region of acceptable performance, while the region external to the cube represents a region of unacceptable performance, and a metric point within the display identifying the current status of system performance at a particular point in time (Caccavale, Column 27, lines 57-63).
>
> Caccavale discloses the claimed aspect of performing an adjustment to system operations based on a region in which the metric point is located in the target-type management vector display to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display, wherein a method and system for dynamically improving the performance of a server in a network, a tuning system monitors a workload of the server in real time, monitors a set of internal performance characteristics of the server in real time, and monitors a set of adjustable server parameters of the server in real time. The workload of the server may include the frequency and type of service requests received by the server from clients in the network. The internal server performance characteristics may include, for example, a data cache hit ratio of a data cache in the server. The set of server parameters may include, for example, the overall data cache size or the data cache geometry of the server. The tuning system periodically alters one or more of the set of adjustable server parameters as a function of the workload and internal performance characteristics of the server. Since the tuning system is continuously monitoring workload and performance characteristics of the server and altering the server parameters accordingly, the effectiveness of a given change in the server parameters is reflected in the next set of monitored workload and performance values. Furthermore, Caccavale provides a computer network and provides a dynamic method of analyzing and improving the performance of the

> network, it is directed to a system and method for improving the performance level of a network server by dynamically adjusting (i.e. tuning) the parameters of the server in response to changes in the workload of the server. (Caccavale, Abstract, Column 1, lines 10-17).
>
> Applicant should duly note that dynamic adjustment would provide continuous service.
>
> Caccavale does teach graphical representation of a target type pattern, however does not teach the graphical user interface aspect. It would be obvious at the time of the invention to illustrate the three dimensional graph(Caccavale, Column 4, lines 26- 29) on a graphical user interface because this would allow the user monitor the network more efficiently.

Final Office Action dated August 25, 2008, pages 4-6.

The Examiner further states:

> 4) Applicant argues that Caccavale does not teach the Graphical User Interface aspect. It would be obvious at the time of the invention to illustrate the three dimensional graph(Caccavale, Column 4, lines 26-29) on a graphical user interface because this would allow the user monitor the network more efficiently.
>
> 5) Applicant argues that Caccavale discloses a sphere and a cube is not same as the claimed target-type display, however sphere in FIG. 12, there is shown a graph with RT.sub.1, RT.sub.2, and RT.sub.3 as the x, y, and z axes, respectively. Each sequential set of 3 response time values creates a triplet as shown in FIG. 13. Each triplet forms a single point on the graph. The maximum permissible response time forms a cube with the length of the sides being equal to RT.sub.sat, as shown. It has been empirically determined that the set of triplets measured over time will typically be bounded by a sphere of radius r.sub.b. The center of the sphere (which also defines the center of the cube) can be determined, for example, by computing the arithmetic mean of the triplet values calculated over a period of time. The radius, r.sub.b, can then be defined as the distance from the most recent triplet value (or from the average position of a set of recent triplet values) to the center of the sphere. Applicant should duly note that sphere contains the metric point of current server capacity utilization. (Caccavale, Column 27, lines 5-68, Column 28, lines 30-39).

Final Office Action dated August 25, 2008, pages 2-3.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be prima facie obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Independent claim 1 reads as follows:

1. A method for monitoring system performance and communicating detailed system performance data via an enhanced graphical user interface, comprising:

querying a current monitoring configuration;

monitoring system performance using instructions obtained from the current monitoring configuration;

polling system data according to the current monitoring configuration;

displaying the polled system data on a graphical user interface, wherein the graphical user interface comprises a target-type management vector display including regions representing levels of system performance and a metric point within the display identifying the current status of system performance at a particular point in time target-type management vector display comprises three regions;

performing an adjustment to system operations based on a region in which the metric point is located in the target-type management vector display to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display.

Contrary to the Examiner's assertions, *Caccavale* does not teach or suggest a <u>graphical user interface comprising a target-type management vector display</u>. The Examiner alleges that this feature is found in the following cited sections of *Caccavale*, which are reproduced below:

> The tuning system **1** estimates that the saturation point will be reached at the time, t_{sat}, when the value of r_b changing at the rate of dr_b/dt will equal the value of RT_{sat} (in other words when the sphere reaches tangency with the cube). Assume, for example, that the current value of r_b equals 5 ms, r_{sat} equals 6 ms and the current value of dr_b /dt equal 0.1 ms/hr. Assuming the workload remains constant, the server will reach saturation in 10 hours. Therefore t_{sat}=10 hrs.
>
> As a result, the tuning system **1** can set an alarm indicating that the server is approaching saturation behavior when t_{sat} drops below a certain threshold. The system will also set an alarm when the sphere intersects the cube to indicate when the server has entered the saturation region.

Caccavale, col. 29, lines 6-19.

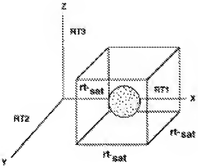

Figure 12

Caccavale, Figure 12.

Column 29, lines 6-19 of *Caccavale* discloses a vector W_a which defines a workload at time t_a. *Caccavale* uses the workload vector W_a to compute an angle theta between the selected workload vector and a reference vector. The value of theta is the mapping of the workload vector from the workload vector to a unique value, or X_a. *Caccavale* defines X_a as a unique value to which is mapped W_a in such a way that W_a is to be the only workload which is mapped to X_a. X_a is also referenced as being a value in the x-axis of an x-y-z parametric phase space, wherein an x-axis value represents the workload of the system. (*Caccavale*, col. 20, lines 33-35.) Thus, the section cited of *Caccavale* discloses taking a given workload vector W_a and mapping it to a unique value X_a using a mapping function.

Figure 12 of *Caccavale* illustrates a three dimensional graph comprising a cube and a sphere. As described in the text corresponding to Figure 12 in column 27, line 57 to column 29, line 25, the volume of the cube is interpreted as an indicator of the maximum capacity of a server to do work. The volume of the sphere is interpreted as an indicator of how much of the maximum capacity is being used at time "t". *Caccavale* determines when a server is approaching a saturation point RT_{sat} by examining "triplets" of measured response times, or three consecutive response times measured from a probe. Each triplet forms a point on the graph as shown in Figure 12. The rate at which the sphere approaches the cube is identified as the rate at which the server is approaching saturation behavior. The saturation point RT_{sat} occurs when the sphere reaches tangency with the cube.

Appellants agree with the Examiner's statement that *Caccavale* does not actually teach a graphical user interface. While the Examiner alleges that it would have been obvious at the time of the invention to illustrate the three dimensional graph in *Caccavale* on a graphical user

interface to enable the user to monitor the network more efficiently, nowhere in the cited sections does *Caccavale* mention anything about a graphical user interface. Furthermore, even if, for the sake of argument, it would have been obvious to illustrate the three dimensional graph in *Caccavale* on a graphical user interface, such a graphical user interface still would not be the same as the target-type display in the presently claimed invention. The three dimensional graph in Figure 12 of *Caccavale* comprises a three dimensional cube which defines the boundaries of acceptable system performance. Within the three dimensional cube, a three dimensional sphere indicates the response times of the system. Thus, the three dimensional graph in *Caccavale* comprises a cube and a sphere, wherein movement of the sphere towards the cube indicates the server is approaching saturation behavior.

In contrast, the presently claimed invention provides a graphical user interface comprising a **target-type display**. Figure 5 of the presently claimed invention, reproduced below, illustrates a target-type management vector display in accordance with the presently claimed invention:

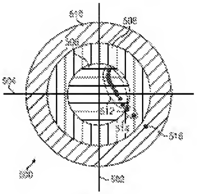

FIG. 5

Specification, Figure 5.

As can be seen, the graph in *Caccavale* comprising a sphere and a cube is not the same as the target-type display as claimed in the present invention. In addition, the sphere in *Caccavale* is used to indicate a current amount of work being done, in contrast with representing an acceptable amount of work as in the target-type display as claimed in the present invention. To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. *See also, In re Royka*, 490 F.2d 580 (C.C.P.A. 1974). As all claim limitations are not taught or suggested by *Caccavale*, it is shown that a prima facie case of obviousness has not been made with respect to claim 1. Consequently, *Caccavale* does not teach or suggest the feature of a graphical user interface comprising a target-

type management vector display as recited in claim 1 of the present invention.

Caccavale also does not teach or suggest performing an adjustment to system operations based on a region in which the metric point is located in the target-type management vector display. The presently claimed invention recites that the region of the target-type display in which a particular metric point is located is used to determine the adjustment to be performed to system operations. In contrast, *Caccavale* discloses a set of triplets (each triplet comprising three measured response time values) measured over time which forms a sphere that indicates how much of the maximum capacity is being used at time "t". (*Caccavale* col. 27, lines 58-60 and col. 28, lines 35-37). The center of the sphere is determined by computing the arithmetic mean of the triplet values calculated over a period of time. (*Caccavale* col. 27, line 65 to col. 28, line 1.) When the entire sphere comprising the set of triplets measured over time moves towards the bounding cube (the volume of which represents the maximum capacity of the server to do work) or intersects with the bounding cube, *Caccavale* teaches setting an alarm to indicate that the server is approaching saturation behavior or has reached the saturation point. (*Caccavale* col. 29, lines 15-19.)

While *Caccavale* teaches using a plurality of triplet values forming a sphere based on the arithmetic mean of the triplet values calculated over a period of time and determining if the server is operating within or approaching an undesired saturation point based on the position of the formed sphere in the cube, the presently claimed invention in contrast recites adjusting system operation based on a metric point that indicates the current status of system performance. While other metric points may be plotted in the target-type display to indicate prior system performance status at various times, the presently claimed invention bases the system operation adjustment to be performed on the region in which the particular metric point indicating the current status of system performance is located, not the location of the other metric points in the target-type display, which indicate prior system performance at a previous time. Since *Caccavale* merely discloses determining whether a server is operating within maximum capacity boundaries by using a plurality of triplets comprising multiple response times measured over a period of time, *Caccavale* does not teach adjusting system operation based on the region in which the particular metric point indicating the current status of system performance is located. Consequently, *Caccavale* does not teach the feature of performing an adjustment to system operations based on a region in which the metric point is located in the target-type management

vector display as recited in claim 1 of the present invention.

Caccavale also does not teach or suggest <u>performing the adjustment to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display</u>. The Examiner alleges that the target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display is taught by *Caccavale* in Figure 12 (reproduced above). However, Figure 12 shows that acceptable system operation is determined based on the position of the sphere within the cube. The volume of the cube is interpreted as an indicator of the maximum capacity of a server to do work. (*Caccavale*, column 27, line 57 to column 29, line 25.) *Caccavale* uses the plurality of triplets (three consecutive response times measured from a probe) to determine when a server is approaching a saturation point (when the sphere reaches tangency with the cube). Thus, *Caccavale* teaches that a non-saturated operational state of the server is represented by the position of the sphere within the cube, rather than disclosing a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display. As shown in Figure 12, the origin (where the three axes meet) in *Caccavale* is outside of the cube. *Caccavale* would not want to move system performance to a target operational state indicated at the origin, since such a move towards this location will cause the server to reach a saturation point. Consequently, *Caccavale* does not teach or suggest the feature of performing the adjustment to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display.

Thus, *Caccavale* does not teach or suggest the features of independent claim 1. Since claims 2, 3, 5-10, 12-14, and 44 are dependent claims depending from claim 1, the same distinctions between *Caccavale* and claim 1 are also applicable to these dependent claims. Consequently, *Caccavale* also does not teach or suggest all of the features of claims 2, 3, 5-10, 12-14, and 44.

Therefore, the rejection of claims 1-3, 5-10, 12-14, and 44 under 35 U.S.C. § 103 has been overcome.

B. GROUND OF REJECTION 2 (Claims 12 and 13)

The Examiner has rejected claims 12 and 13 as being unpatentable under 35 U.S.C. § 103 over Caccavale (U.S. Patent No. 5,819,033), hereinafter "*Caccavale*" in view of Manghirmalani (U.S. Patent No. 5,819,028), hereinafter "*Manghirmalani*".

The Examiner states:

> Regarding claims 12-13 most of the limitations have been met in the rejection of Claims 1, 16 and 30. See rejection details for Claims 1, 16 and 30. Caccavale discloses the claimed aspect of the target-type management vector display comprises two regions, wherein a first region indicates satisfactory performance (FIG. 12, sphere), a second region indicates unacceptable performance (FIG. 12, when sphere intersects the cube is the unacceptable region).
>
> Caccavale does not specifically teach another region "a third region indicates improvement required performance" and regions are displayed using different colors, however Manghirmalani discloses three different region in FIG. 6, L 606, N 607, H 608. The region 606 is shaded in red. (Caccavale, Column 9, lines 38-40). Furthermore in FIG. 12, 1211, 1212, 1213 indicated regions with different colors. (Caccavale, Column 12, lines 34-37).
>
> It would be obvious to one of ordinary skill in the art at the time of invention to combine Caccavale's target vector representation with Manghirmalani's different color region concept because this would allow the user to monitor the system more efficiently.

Final Office Action dated August 25, 2008, pages 10-11.

Claims 12 and 13 are dependent claims depending from claim 1. As shown in section A above, *Caccavale* does not teach the features of a graphical user interface comprising a target-type management vector display, performing an adjustment to system operations based on a region in which the metric point is located in the target-type management vector display, and performing the adjustment to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display as recited in claim 1. Since all of the features of claim 1 are not found in *Caccavale* as alleged by the Examiner, a combination of *Caccavale* and *Manghirmalani* also cannot reach the presently claimed invention in dependent claims 12 and 13.

In addition, contrary to the Examiner's assertions, *Manghirmalani* does not teach or suggest the features of claims 12 and 13 of the present invention. With regard to claim 12, Appellants agree with the Examiner that *Caccavale* does not teach "a third region that indicates improvement required performance". (Final Office Action dated August 25, 2008, page 11.)

However, the Examiner points to *Manghirmalani* as teaching a third region that indicates improved required performance in Figure 6, as shown below:

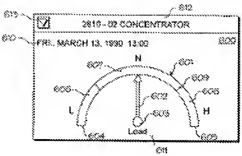

Fig. 6

Manghirmalani, Figure 6.

The Examiner alleges that *Manghirmalani* teaches teaching a third region that indicates improvement required performance since Figure 6 shows three load sections. The load sections are described in the text corresponding to Figure 6, which is reproduced below:

> Similar to the health, the load is displayed on a CRT computer monitor display on the network management station in the forms of either a dial meter, graphical meter, or digital meter. **FIG. 6** shows the load in a dial meter **600** for a concentrator. A crescent-shaped load bar **601** represents the range of the load. An indicator **602** pivots about point **603** and swings between endpoints **604** and **605**. The left endpoint **604** corresponds to no load on the network/device being monitored. The right endpoint **605** corresponds to an extremely heavy load. The load increases linearly from left to right between the two endpoints **604** and **605**. A portion **606** is shaded in red, which signifies that the network/device is being overloaded. The location of indicator **602** between endpoints **604** and **605** determines the load at that time. In one embodiment, the letters L, N, and H represent "low", "normal", and "heavy", loads. Load bar **601** is broken into three sections **606-608**, which respectively correspond to low, normal, and high loads. Note that the top end **609** of the normal range **607** is less than the maximum scale **605**. The load dial meter **600** also displays the current data and time **610**, meter name **611**, the network/device being monitored **612**, and an open/close icon **613**.

Manghirmalani, col. 9, lines 28-49.

This section discloses a crescent shaped load bar which represents the range of the current load. Section 606 corresponds to a low load on the monitored device, section 607 indicates a normal load on the monitored device, and section 608 indicates a heavy load on the monitored device. However, *Manghirmalani* does not disclose a section that indicates 'improvement required performance'. *Manghirmalani* merely discloses using the three sections, low, normal, and high, to indicate the current load applied to a network device, rather than the performance of

the system.

With regard to claim 13, Appellants agree with the Examiner that *Caccavale* does not teach "regions are displayed in different colors". (Final Office Action dated August 25, 2008, page 11.) However, *Manghirmalani* also does not disclose displaying the regions in different colors. *Manghirmalani* merely discloses that a portion of one section is shaded in red, rather than teaches all the (three) sections displayed entirely (not a portion) in a different color.

Thus, the combination of *Caccavale* and *Manghirmalani* does not teach or suggest all of the features of claims 12 and 13 of the present invention.

Even if the missing element of claims 12 and 13 existed in *Caccavale* or *Manghirmalani*, for the rejected claims to be obvious there must be some motivation or incentive to one of ordinary skill in the art to modify or combine the reference teachings to achieve the present invention. Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. *KSR Int'l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)).

The Examiner asserts that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of *Caccavale's* target vector representation with *Manghirmalani's* different color region concept because this would allow the user to monitor the system more efficiently." (Final Office Action, page 11). Appellants respectfully disagree. *Caccavale* teaches a metaphor comprising two objects, a cube and a sphere, wherein movement of the sphere towards the cube indicates the server is approaching saturation behavior. In contrast, *Manghirmalani* teaches a metaphor comprising a load bar having three sections or regions that are used to indicate the current load applied to a network device. It would not have been obvious to one of ordinary skill in the art to combine *Caccavale* or *Manghirmalani* since the cube-sphere metaphor in *Caccavale* is entirely different from the three region metaphor in *Manghirmalani*. As there would be no reason for the *Caccavale* cube-sphere to employ the three region load bar in *Manghirmalani*, there would be no reason for one

of ordinary skill in the art to have combined the teaching of *Caccavale* with the teachings of *Manghirmalani*.

Accordingly, the Examiner has failed to state a *prima facie* obviousness rejection against claims 12 and 13.

C. CONCLUSION

As shown above, the Examiner has failed to state valid rejections against any of the claims. Therefore, Appellants request that the Board of Patent Appeals and Interferences reverse the rejections. Additionally, Appellants request that the Board direct the Examiner to allow the claims.

Date: January 8, 2009

Respectfully submitted,

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CLAIMS APPENDIX

The text of the claims involved in the appeal is as follows:

1. A method for monitoring system performance and communicating detailed system performance data via an enhanced graphical user interface, comprising:

querying a current monitoring configuration;

monitoring system performance using instructions obtained from the current monitoring configuration;

polling system data according to the current monitoring configuration;

displaying the polled system data on a graphical user interface, wherein the graphical user interface comprises a target-type management vector display including regions representing levels of system performance and a metric point within the display identifying the current status of system performance at a particular point in time; and

performing an adjustment to system operations based on a region in which the metric point is located in the target-type management vector display to move system performance towards a target operational state represented by a point where the vertical axis and horizontal axis meet on the management vector display.

2. The method of claim 1, further comprising:

determining whether the polled system data is reportable;

selecting a report to display the polled system data; and

identifying information in the polled system data to display in the report.

3. The method of claim 1, wherein the metric point within the target-type management vector display provides the performance status of a particular area of the system at a particular time.

5. The method of claim 1, wherein multiple metric points are used in the display to identify a trail of system status information determined at fixed periods of time.

6. The method of claim 5, wherein the metric trail is used to determine the effect adjustments to system operation have on system performance.

7. The method of claim 5, wherein the distance between consecutive metric points indicates the rate of change of system performance over a fixed period of time.

8. The method of claim 1, wherein the target-type management vector display includes a vertical axis and horizontal axis representing user-defined attributes.

9. The method of claim 8, wherein the user-defined attributes include transactions over time.

10. The method of claim 8, wherein industry baseline metrics are used to set the attributes.

12. The method of claim 1, wherein the target-type management vector display comprises three regions, wherein a first region indicates satisfactory performance, a second region indicates improvement required performance, and a third region indicates unacceptable performance.

13. The method of claim 1, wherein the regions are displayed using different colors.

14. The method of claim 1, wherein the graphical user interface includes multiple target-type management vector displays, each display representing system performance for a different set of variables.

44. The method of claim 1, further comprising:

updating the target-type management vector display to include a new metric point identifying an updated status of system performance as a result of the adjustment to the system operation.

EVIDENCE APPENDIX

This appeal brief presents no additional evidence.

RELATED PROCEEDINGS APPENDIX

This appeal has no related proceedings.